CAIN & HERREN, ALC
ATTORNEYS AT LAW
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Electronically Filed
SECOND CIRCUIT
2CCV-21-0000061
05-MAR-2021
01:30 PM
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Attorneys for Plaintiff M.E.O.W.I.E. Foundation Inc. dba Beach Broadcast

IN THE CIRCUIT COURT OF THE SECOND CIRCUIT

STATE OF HAWAI'I

M.E.O.W.I.E. FOUNDATION INC. dba BEACH BROADCAST, Plaintiff, vs. ALPHABET, INC.; GOOGLE LLC, dba YOUTUBE; XXVI HOLDINGS, INC.; JOHN DOES 1-10; JANE DOES 1-10; DOE CORPORATIONS 1-10; and DOE PARTNERSHIPS 1-50, Defendants.	CIVIL NO. _____ (Contract and HRS480§2) COMPLAINT; EXHIBIT A; JURY TRIAL DEMAND; SUMMONS

COMPLAINT

AND NOW COMES Plaintiff M.E.O.W.I.E. FOUNDATION INC. dba BEACH BROADCAST, by and through their attorneys CAIN & HERREN, ALC, (hereinafter "Plaintiff"), and for Complaint against ALPHABET, INC.; GOOGLE LLC, dba YOUTUBE; XXVI HOLDINGS, INC.; JOHN DOES 1-10; JANE DOES 1-10; DOE

CORPORATIONS 1-10; and DOE PARTNERSHIPS 1-50 (hereinafter "Defendants") alleges and avers as follows:

FACTS COMMON TO ALL COUNTS

1. At all times relevant herein, Plaintiff M.E.O.W.I.E. FOUNDATION INC. dba BEACH BROADCAST, is and was a domestic nonprofit corporation incorporated under the laws of the state of Hawaii, with its principal place of business in Kihei, Hawaii.

2. DEFENDANT ALPHABET INC. is a for profit, public corporation incorporated under the laws of the State of Delaware, with its principal place of business in Mountain View, California and regularly conducts business throughout the state of California and globally. On information and belief, at all relevant times, Defendant ALPHABET INC. acts as an agent of Defendant GOOGLE LLC, dba YOUTUBE and controls and/or participates in controlling/directing discriminatory practices as related to restricting constitutionally protected speech, religious discrimination, and national origin discrimination, as well as other causes of action alleged in this complaint regarding the YouTube.com website and/or platform. As the parent company of DEFENDANT GOOGLE LLC, dba YOUTUBE, it is liable for its actions or omissions as agent that violate the law and cause financial loss to Plaintiff;

3. DEFENDANT GOOGLE LLC, dba YOUTUBE (hereinafter "YOUTUBE") is a for profit limited liability corporation, wholly owned by ALPHABET INC. and organized under the laws of the State of Delaware. YOUTUBE's principal place of business is San Bruno, California and it regularly conducts business throughout the

state of California and globally. Defendant YOUTUBE operates the largest and most popular internet video viewer site, platform, and service in the world and holds itself out as one of the most important and largest public forums for the expression of ideas and exchange of speech available to the public. On information and belief, at all relevant times Defendant YOUTUBE uses, relies on, and participates with GOOGLE, LLC in restricting speech on the YOUTUBE website, platform, or service;

4. DEFENDANT XXVI HOLDINGS, INC. is a for profit, public corporation incorporated under the laws of the State of Delaware. Defendant XXVI HOLDINGS, INC. is the managing member of DEFENDANT GOOGLE LLC, and controls and/or participates in controlling/directing discriminatory practices as related to restricting constitutionally protected speech, religious discrimination, and national origin discrimination, as well as other causes of action alleged in this complaint. As the managing member of DEFENDANT GOOGLE LLC, it is liable for its actions or omissions as agent that violate the law and cause financial loss to Plaintiff;

5. Defendants JOHN DOES 1-10, JANE DOES 1-10, DOE CORPORATIONS 1-10, and DOE PARTNERSHIPS 1-50 (hereinafter referred to as "Doe Defendants") are persons, corporations, partnerships, and/or business entities who acted in a negligent, wrongful or tortious manner which proximately caused or contributed to injuries and damages sustained by Plaintiff. Plaintiff has been unable to ascertain the names and identities of the above-named Doe Defendants from the investigation that has been conducted to date. Accordingly, Plaintiff has sued the unidentified Doe Defendants herein with fictitious names pursuant to rule 17(d) of the

Hawaii Rules of Civil Procedure, and Plaintiff will substitute the true names, identities, capacities, and/or omissions of the Doe Defendants when the same are ascertained;

6. All of the acts and occurrences alleged herein took place in the County of Maui, State of Hawaii, therefore venue is appropriate in this Court;

7. This Court has personal jurisdiction over Defendants ALPHABET, INC. and GOOGLE, LLC dba YOUTUBE, and XXVI HOLDINGS, INC. as they are corporate entities that regularly conduct business with residents of Maui and other consumers across the state of Hawaii;

8. The parties entered into an agreement in which Plaintiff as a content generator would produce and post videos on its youtube channel, "Santa Surfing Beach Broadcast".

9. The posting of this content on YOUTUBE attracts viewers across the world, which allows YOUTUBE to generate income through advertising to third parties;

10. In exchange, YOUTUBE agrees to pay Plaintiff revenue per mille (RPM) based on actual viewer traffic of these videos. Plaintiff has been relying almost exclusively on this RPM income and sale of products relating to its YouTube channel to finance the owner's lifestyle and pay monthly personal and business expenses;

11. YOUTUBE itself is not a content generator and relies exclusively on individuals to generate content to attract viewers and consequently advertisers to its social media service;

12. For months, the Parties relationship was mutually beneficial and lucrative to both Plaintiff and YOUTUBE;

13. Plaintiff has created a very successful following of its YouTube videos which provides consumers a conservative alternative view of current events that are not entertained by media and most social media;

14. Plaintiff's high web traffic is a testament that many Americans hunger for content relating to its non-mainstream viewpoints and socially conscious public voice;

15. Plaintiff is aware that President Trump on occasion has viewed its YouTube videos because the content has been referenced by him in his political speeches;

16. However, at one point YOUTUBE began a campaign of censorship which caused the removal of some of Plaintiff's videos, restricted Plaintiff's ability to post new videos for a period of time; and suspended/cancelled Santa Surfing Beach Broadcast channel without notice;

17. Besides lacking merit, this censorship campaign has caused Plaintiff extreme financial loss and has exposed YOUTUBE to civil liability resulting in this lawsuit to demand compensation for these financial losses;

18. Substantively, the censorship makes no sense because YOUTUBE allows the posting of violent material, of which Plaintiff has proof, but it does not censor this material;

19. Upon information and belief, the censorship in this case is based purely on content which YOUTUBE finds unfavorable, citing but incites no violence and breaks no standards of conduct per YOUTUBE's end-user agreement;

20. Further, YOUTUBE cites Plaintiff for violations of World Health Organization guidance;

21. YOUTUBE's labeling of Plaintiff's content as hateful is arbitrary and capricious and has no factual support;

COUNT ONE - BREACH OF CONTRACT

22. Plaintiff re-alleges the allegations contained in Paragraphs 1-20 and incorporates them hereto;

23. YOUTUBE'S standard for paying RPMs is based in recording the number of channel views and assigning the content creator a monetization ratio which is then used to calculate;

24. On occasion, YOUTUBE modifies the monetization ratio, which has a major impact on the compensation a content creator receives;

25. At one point, Plaintiff was earning between three thousand ($3,000.00) dollars and twenty five thousand ($25,000.00) dollars a month from YOUTUBE. In addition to this RPM income, Plaintiff was also separately selling its products to customers relating to the YouTube channel in the amount of four thousand ($4,000.00) dollars a month. Consequently, Plaintiff's total monthly earnings from posting its content on YouTube was approximately twenty nine thousand ($29,000.00) dollars a month;

26. YOUTUBE began a censorship campaign against Plaintiff shortly after Plaintiff posted a video showing proof that George Floyd, Sandy Hook and El Paso shootings were planned events using paid actors. YOUTUBE responded by taking down this video and labeled Plaintiff's YouTube channel "hate speech;"

27. Even prior to this incident, YOUTUBE began manipulating Plaintiff's earnings and restricting viewers to its channel by not featuring the channel to the general

public as it would with other content generators;

28. YOUTUBE also begin to change the URL of Plaintiff's YouTube channel, which made it impossible for Plaintiff to advertise its channel. This of course, also had a substantial impact on Plaintiff's viewership and thus Plaintiff's RPMs and ability to market its products;

29. Attached as Exhibit A are true and correct copies of screenshots Plaintiff obtained from YOUTUBE indicating its web traffic, which although it increased over time, resulted in less RPM income due to YOUTUBE's manipulation of its monetization ratio;

30. Plaintiff was also forced to defend a meritless closed captioning complaint on YouTube which is ridiculous, because YOUTUBE is able to provide closed-captioning on videos posted by its content generators. Its choice to remove close captioning is entirely within the control of YOUTUBE and further exposes Plaintiff and others to financial loss;

31. Further, on October 21, 2020, YOUTUBE suspended Plaintiff's ability to upload videos to its main channel, deleted 100 of its uploaded videos (which it labeled as "hateful" without evidence), and on October 27, 2020 YOUTUBE demonetized its main channel.

32. Because Plaintiff's channel was suspended, it was not able to challenge any of these actions.

33. YOUTUBE indicated that it would give Plaintiff two more warnings before a full suspension, but on January 11, 2021, YOUTUBE terminated Plaintiff's

channel without merit or notice.

COUNT TWO - HRS § 480

34. Plaintiff re-alleges the allegations contained in Paragraphs 1-32 and incorporates them hereto;

35. YOUTUBE is supposed to monitor the content of its videos in a content-neutral manner;

36. YOUTUBE itself is not a content generator;

37. It cannot unfairly label content as hate speech in patent disregard of the economic effect such labeling has on Plaintiff or other content generators;

38. None of Plaintiff's videos promoted or contained hate speech;

39. Expressing an opinion that recent shootings were planned events by individuals does not incite viewers to violence;

40. Further, there are many other controversial content creators that post about Antifa or BlackLivesMatter that take similarly controversial positions and yet are not censored by YOUTUBE;

41. As Plaintiff's income is tied to posting of content on YOUTUBE, Plaintiff is very mindful of its obligations under the end-user agreement and does not violate the standards of YOUTUBE's internal regulations;

42. Until YOUTUBE restores Plaintiff's channel and restores its monetization ratio to pre-censorship levels and removes any false hate speech labels on its file with YOUTUBE, Plaintiff will continue to suffer a one hundred percent (100%) drop in income, which YOUTUBE must compensate Plaintiff for;

43. YOUTUBE'S arbitrate and capricious use of content censorship constitutes unfair and deceptive trade practice under HRS§480(2), et seq., which consequently means any verdict by the jury or the Court should consider an additional assessment of treble damages under the statute.

WHEREFORE, Plaintiff prays for judgment against ALPHABET, INC., GOOGLE LLC, dba YOUTUBE, and XXVI Holdings, INC., jointly and severally, as follows:

a. Damages in an amount to be proven at trial, but not less than fifty thousand ($50,000.00) dollars;

b. Treble damages pursuant to HRS§480(2);

c. Costs and reasonable attorneys' fees incurred in this litigation;

d. Prejudgment and post judgment interest;

e. Enjoin Plaintiff from similar and future baseless censorship; and

f. Such additional and further relief deemed just and equitable by this Court.

Plaintiff contends that the amount of damages as alleged herein fall within the jurisdictional requirements of this Court.

Dated: Wailuku, Maui, Hawaii, Friday, March 5, 2021.

CAIN & HERREN, ALC

/s/ Michael J. Collins
Michael J. Collins, Esq.
Attorneys for Plaintiff M.E.O.W.I.E. Foundation Inc. dba Beach Broadcast

CAIN & HERREN, ALC
ATTORNEYS AT LAW
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Email: mike@cainandherren.com

Attorneys for Plaintiff M.E.O.W.I.E. Foundation Inc. dba Beach Broadcast

IN THE CIRCUIT COURT OF THE SECOND CIRCUIT

STATE OF HAWAI'I

M.E.O.W.I.E. FOUNDATION INC. dba BEACH BROADCAST, Plaintiff, vs. ALPHABET, INC.; GOOGLE LLC, dba YOUTUBE; XXVI HOLDINGS, INC.; JOHN DOES 1-10; JANE DOES 1-10; DOE CORPORATIONS 1-10; and DOE PARTNERSHIPS 1-50, Defendants.	CIVIL NO. _____ (Contract and HRS480§2) DEMAND FOR JURY TRIAL

DEMAND FOR JURY TRIAL

Plaintiff M.E.O.W.I.E. FOUNDATION INC. dba BEACH BROADCAST, by and through its attorneys CAIN & HERREN, ALC, (hereinafter "Plaintiff"), hereby demands a trial by jury in the above captioned matter on all issues so triable herein.

Dated: Wailuku, Maui, Hawaii, Friday, March 5, 2021.

/s/ Carrol Hall
CARROL HALL
Plaintiff

IN THE CIRCUIT COURT OF THE SECOND CIRCUIT

STATE OF HAWAI'I

M.E.O.W.I.E. FOUNDATION INC. dba BEACH BROADCAST, Plaintiff, vs. ALPHABET, INC.; GOOGLE LLC, dba YOUTUBE; XXVI HOLDINGS, INC.; JOHN DOES 1-10; JANE DOES 1-10; DOE CORPORATIONS 1-10; and DOE PARTNERSHIPS 1-50, Defendants.	CIVIL NO. _____ (Contract and HRS480§2) SUMMONS

SUMMONS

TO THE ABOVE NAMED DEFENDANT(S): ALPHABET, INC.; GOOGLE LLC, dba YOUTUBE, XXVI HOLDINGS, INC.

YOU ARE HEREBY SUMMONED and required to file with the Court and serve upon Plaintiff's attorneys, CAIN & HERREN ALC whose address is 2141 W. Vineyard Street, Wailuku, Hawaii 96793, an answer to the Complaint which is herewith served upon you, within twenty (20) days after service of this summons upon you, exclusive of the date of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the Complaint.

Pursuant to Rule 4(b) of the Hawai'i Rules of Civil Procedure, this summons shall not be personally delivered between 10:00 p.m. and 6:00 a.m. on premises not open to the general public, unless a judge of the above-entitled court permits, in writing on this summons, personal delivery during those hours.

A failure to obey this summons my result in an entry of default and default judgment against the disobeying person or party.

Dated: Wailuku, Maui, Hawaii, _____.

_____
CLERK OF THE ABOVE-ENTITLED COURT

EXHIBITS COVERSHEET

EXHIBIT A

influence over how your videos are monetized. Answer a few questions during your next upload to help us make better monetization decisions LEARN MORE DISMI

Search across your channel

Channel analytics

ADVANCED MODE

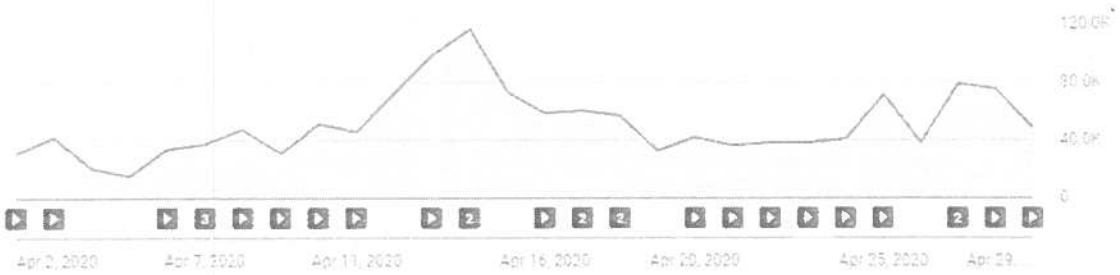
Overview Reach Engagement Audience Revenue

Apr 2 – 29, 2020
Last 28 days

Views are up! Your channel got 1,427,566 views in the last 28 days.

That's more than the 9,800–69,500 your channel usually gets.

Views	Watch time (hours)	Subscribers	Your estimated revenue
1.4M	222.0K	+21.1K	$2,744.00
1.4M more than usual	205.8K more than usual		



SEE MORE

Realtime

Updating live

54,931
Subscribers

92,724
Views · Last 48 hours

Top videos	Views
Freeing Flynn - No more ...	25,337
May get Twitmoed - Just ...	23,221
Barr the Beast! Trump T...	17,360

SEE MORE

Latest videos

Your top videos in this period

Case 1:21-cv-00215-DKW-WRP Document 1-1 Filed 04/30/21 Page 15 of 22 PageID #: 23

Case 1:21-cv-00215-DKW-WRP Document 1-1 Filed 04/30/21 Page 16 of 22 PageID #: 24

utube.com/channel/UC0v7VUtxrPnQWPgZx-W5zgw/analytics/tab-overview/period-4_weeks

inds for those impacted by COVID-19? Add the Donate button to your videos & streams - YouTube & Google.org will match $2 for every $1 donated to the COVID-19 Solidarity Response Fund for WHO JOIN THE CAMPAIGN DISMI

Search across your channel

Channel analytics

ADVANCED MODE

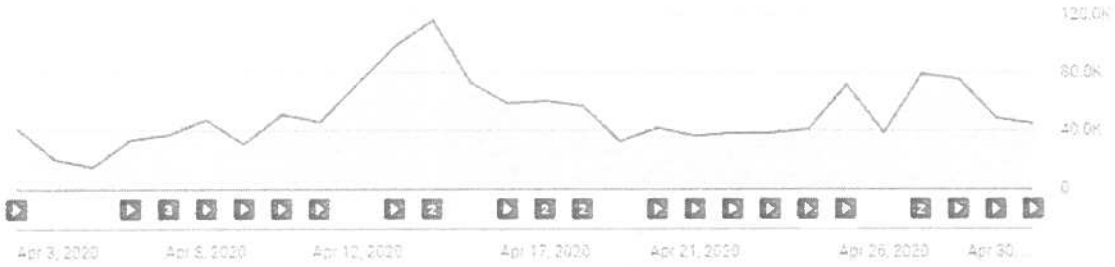
Overview Reach Engagement Audience Revenue

Apr 3 – 30, 2020
Last 28 days

Views are up! Your channel got 1,442,133 views in the last 28 days.

That's more than the 8,400–71,300 your channel usually gets.

Views	Watch time (hours)	Subscribers	Your estimated revenue
1.4M	223.3K	+21.4K	$2,683.03
1.4M more than usual	205.3K more than usual		



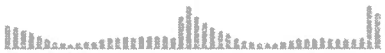
SEE MORE

Realtime

Updating live

55,257
Subscribers

85,354
Views Last 48 hours



-48h Now

Top videos	Views
Barr the Beast! Trump T...	23,907
May get Twitmoed - Just ...	19,917
Freeing Flynn - No more ...	15,537

SEE MORE

Latest videos

Your top videos in this period

doomed.jpg av.jpg comey.jpg see self.jpg digital soldiers.jpg swamp.jpg

rch

Your channel

Santa Surfing Beach Broadcast

- Dashboard
- Videos
- Playlists
- Analytics
- Comments
- Subtitles
- Copyright
- Monetization
- Audio library

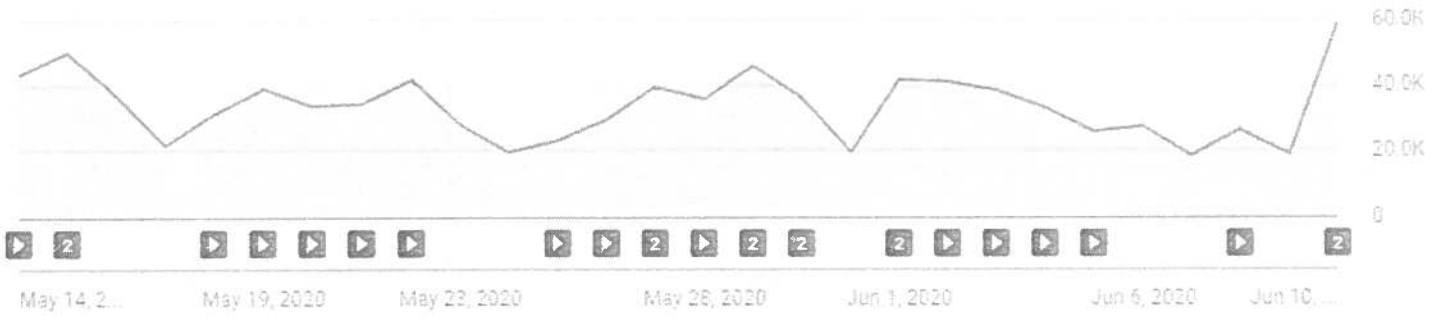
Channel analytics

Overview | Reach | Engagement | Audience | Revenue

Views are up! Your channel got 938,947 views in the last 28 days.

That's more than the 19,400–206,000 your channel usually gets

Views	Watch time (hours)	Subscribers	Your estimated revenue
938.9K	153.7K	+11.8K	$2,387.62
732.9K more than usual	*115.5K more than usual*		



SEE MORE

Studio

Search across your channel

CREATE

Your channel
Santa Surfing Beach Broadcast

- Dashboard
- Videos
- Playlists
- Analytics
- Comments
- Subtitles
- Copyright
- Monetization
- Audio library
- Settings
- Send feedback

Channel analytics

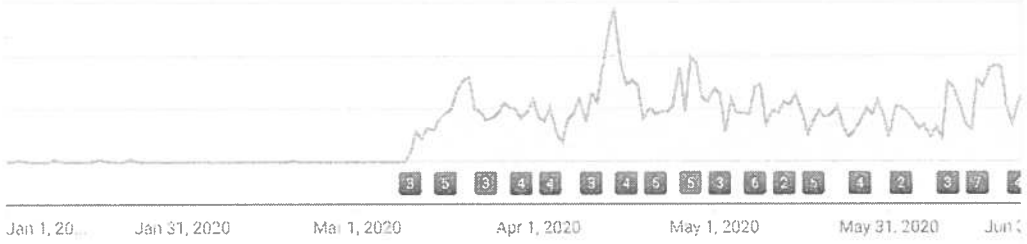
ADVANCED MODE

Overview | Reach | Engagement | Audience | Revenue

Jan 1 – Jun 30, 2020
Custom

People watched your videos 4,883,434 times during the dates you selected

Views	Watch time (hours)	Subscribers	Your estimated revenue
4.9M	763.2K	+71.2K	$10,337.33



SEE MORE

Realtime
Updating live

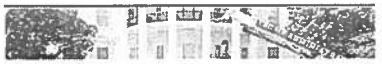
101,255
Subscribers

74,900
Views · Last 48 hours

Top videos	Views
Trump's Christmas S...	39,281
Trump's UPS Speech! ...	8,328
NESARA- All 16 Parts ...	3,312

SEE MORE

Latest videos



Trump's Christmas Setting! Feds are in trouble!

This video is popular! People are choosing it more often from recommendations and watching it longer than usual. Tell me more

Your top videos in this period

	Video	Average view duration	Views
1	GESARA / NESARA is it happening now? A Law that woul... Mar 10, 2020	6:57 (37.4%)	327,743
2	NESARA- All 16 Parts summarized - TRANSITION TO GRE... May 22, 2020	14:48 (41.8%)	157,318

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Studio

Search across your channel

CREATE

Your channel
Santa Surfing Beach Broadcast

- Dashboard
- Videos
- Playlists
- Analytics
- Comments
- Subtitles
- Copyright
- Monetization
- Audio library
- Settings
- Send feedback

Channel analytics

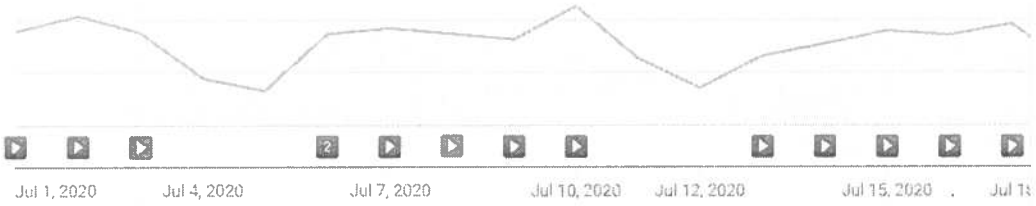
ADVANCED MODE

Overview | Reach | Engagement | Audience | Revenue

Jul 1 – 18, 2020
July

In July, people watched your videos 1,108,720 times

Views	Watch time (hours)	Subscribers	Your estimated revenue
1.1M	197.9K	+16.4K	$5,728.67



SEE MORE

Your top videos in this period

	Video	Average view duration	Views
1	Robert Kennedy Jr. Comms! SCOTUS Dirt! Jul 9, 2020	10:11 (45.7%)	104,160
2	NESARA / GESARA Part 24 - Dream Big! Jul 7, 2020	12:40 (51.3%)	81,299

Realtime

Updating live

101,256
Subscribers

74,930
Views · Last 48 hours

Top videos	Views
Trump's Christmas S...	39,289
Trump's UPS Speech! ...	8,333
NESARA- All 16 Parts ...	3,314

SEE MORE

Latest videos

Trump's Christmas Setting! Feds are in trouble!

This video is popular! People are choosing it more often from recommendations and watching it longer than usual. Tell me more

Case 1:21-cv-00215-DKW-WRP Document 1-1 Filed 04/30/21 Page 19 of 22 PageID #: 27

studio.youtube.com/channel/UC0v7VUtxPnQWPgZx-WSzgw

Studio

Search across your channel

CREATE

Your channel
Santa Surfing Beach Broadcast

- Dashboard
- Videos
- Playlists
- Analytics
- Comments
- Subtitles
- Copyright
- Monetization
- Audio Library
- Settings
- Send feedback

Channel dashboard

Channel violations

Active Community Guidelines strikes — Warning

Latest video performance

Great job! Your audience is showing more interest than usual in this video.

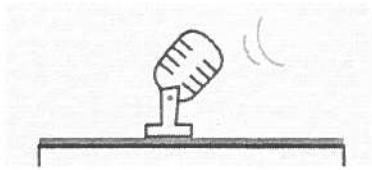
First 5 hours 48 minutes compared to your typical performance:

Ranking by views	3 of 10
Views	25.3K
Impressions click-through rate	30.7%
Average view duration	11:18

GO TO VIDEO ANALYTICS

SEE COMMENTS (555)

News



COVID & US Hispanic Community

Teachingmemsfashion, Becky G, and Jasmine Brown get answers about COVID-19 from Dr. Elena Rios, CEO of the Hispanic Medical Association

WATCH NOW

What's new in Studio

Find out when your viewers are on YouTube

Upload multiple videos with batch uploads

See more Studio updates

Creator Insider

Channel analytics

Current subscribers

78,470

+12,871 in last 28 days

Summary

Last 28 days

Views	1.1M ↑ 1%
Watch time (hours)	182.9K ↑ 5%
Revenue	$1,918.85 ↓ 43%

Top videos

Last 48 hours · Views

Trump Rally Supporters get locked out!	29.6K
SCOTUS rules to seizing assets! We got POTUS'd!	25.3K
NESARA / GESARA Part 22 -Juneteenth	11.0K

GO TO CHANNEL ANALYTICS

Recent subscribers

Last 90 days

Rootjunky.com
253K subscribers

James Munder
124K subscribers

"Choose Greatness.jpg | Jesus saves.jpg | 9999999997-06....paper | FinalLetter_47-4143....tif | wwbus.jpg | trumpspoocom.jpg | praysingsaints.jpg | Show all

Search

2:54 PM
6/23/2020

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SECOND CIRCUIT
2CCV-21-0000061
08-MAR-2021
11:15 AM
Dkt. 9 SUMM

IN THE CIRCUIT COURT OF THE SECOND CIRCUIT

STATE OF HAWAI'I

M.E.O.W.I.E. FOUNDATION INC. dba BEACH BROADCAST, Plaintiff, vs. ALPHABET, INC.; GOOGLE LLC, dba YOUTUBE; XXVI HOLDINGS, INC.; JOHN DOES 1-10; JANE DOES 1-10; DOE CORPORATIONS 1-10; and DOE PARTNERSHIPS 1-50, Defendants.	CIVIL NO. _____ (Contract and HRS480§2) SUMMONS

SUMMONS

TO THE ABOVE NAMED DEFENDANT(S): ALPHABET, INC.; GOOGLE LLC, dba YOUTUBE, XXVI HOLDINGS, INC.

YOU ARE HEREBY SUMMONED and required to file with the Court and serve upon Plaintiff's attorneys, CAIN & HERREN ALC whose address is 2141 W. Vineyard Street, Wailuku, Hawaii 96793, an answer to the Complaint which is herewith served upon you, within twenty (20) days after service of this summons upon you, exclusive of the date of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the Complaint.

Pursuant to Rule 4(b) of the Hawai'i Rules of Civil Procedure, this summons shall not be personally delivered between 10:00 p.m. and 6:00 a.m. on premises not open to the general public, unless a judge of the above-entitled court permits, in writing on this summons, personal delivery during those hours.

A failure to obey this summons my result in an entry of default and default judgment against the disobeying person or party.

Dated: Wailuku, Maui, Hawaii, MAR - 8 2021.

/SGD/ N. MARTINS (SEAL)

CLERK OF THE ABOVE-ENTITLED COURT